



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0788; FRL-9949-70-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland;
Reasonable Further Progress Plan, Contingency Measures, Motor Vehicle Emissions
Budgets for the Baltimore 1997 8-Hour Ozone Serious Nonattainment Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the serious nonattainment area reasonable further progress (RFP) plan for the Baltimore serious nonattainment area for the 1997 8-hour ozone national ambient air quality standard (NAAQS). The SIP revision includes 2011 and 2012 RFP milestones, contingency measures for failure to meet RFP, and updates to the 2002 base year inventory and the 2008 reasonable RFP plan previously approved by EPA. EPA is also approving the transportation conformity motor vehicle emissions budgets (MVEBs) associated with this revision. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2015-0788. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814-2181, or by e-mail at pino.maria@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 2, 2016 (81 FR 26188), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of the “Baltimore Serious Nonattainment Area 0.08 ppm 8-Hour Ozone State Implementation Plan Demonstrating Rate of Progress for 2008, 2011 and 2012 Revision to 2002 Base Year Emissions; and Serious Area Attainment Demonstration, SIP Number: 13-07,” (the Serious Area Plan) submitted by the Maryland Department of the Environment (MDE) on July 22, 2013. The SIP revision submittal included updates to the 2002 base year emissions inventory and 2008 RFP plan that EPA previously approved into the Maryland SIP, RFP for 2011 and 2012, an attainment demonstration, including modeling and weight of evidence, RFP and attainment contingency measures, a reasonably available control measures (RACM) determination, and 2012 MVEBs. After EPA determined Baltimore had attained the 1997 8-hour ozone standard, Maryland, by

letter dated October 20, 2015, withdrew the attainment demonstration, including modeling and weight of evidence, contingency measures for attainment, and the RACM analysis from consideration as a SIP revision. Therefore, those elements are not addressed in this rulemaking action.

II. Summary of SIP Revision

On June 4, 2010, EPA approved Maryland's moderate area RFP that provided for a 15 percent (%) emissions reduction from 2002 to 2008, contained in the Moderate Area Plan. 75 FR 31709. Maryland, however, needed to update the 2008 target levels for its Serious Area Plan because they are the basis for the new 2011 and 2012 target level calculations for RFP. Maryland also needed to update its 2002 base year inventory, which is the basis for the 2008 target levels and its 15% RFP plan. In the Serious Area Plan, MDE updated its 2002 base year inventory and 15% RFP plan, including 2008 target levels, to reflect changes to EPA's approved model for on-road mobile sector emissions, from the Mobile Source Emission Factor Model (MOBILE) to the Motor Vehicle Emission Simulator (MOVES) model, as well as updates to EPA's NONROAD model.

Serious 8-hour ozone nonattainment areas are subject to RFP requirements in section 182(c)(2)(B) of the CAA that require an average of 3% per year of volatile organic compounds (VOC) and/or oxides of nitrogen (NO_x) emissions reductions for all remaining 3-year periods after the first 6-year period out to the area's attainment date (2008-2011 and 2011-2012). For a serious area, such as the Baltimore Area, with an approved 15% rate of progress (ROP) plan under the 1-hour standard, states can use reductions from VOC or NO_x or a combination of

either. The Serious Area Plan contains 2011 and 2012 RFP for the Baltimore Area, including the calculation of 2011 and 2012 target levels, 2011 and 2012 projected inventories, and an accounting of the emission reductions from permanent and enforceable emission control measures achieved to meet RFP. The Serious Area Plan also includes contingency measures for failure to meet the 2012 RFP milestone. Finally, the Serious Area Plan includes 2012 MVEBs the Baltimore Area, set at 93.5 tons per day (tpd) NO_x and 40.2 tpd VOC.

EPA reviewed the RFP plan for the Baltimore Area submitted in the Serious Area Plan, including updates to the 2008 RFP target levels previously SIP approved by EPA, the 2011 and 2012 RFP targets levels, control measures used to meet RFP, and contingency measures for failure to meet the 2012 RFP target, and found them to be approvable. In addition, EPA determined that MDE used acceptable techniques and methodologies to update the 2002 base year and 2008 projected inventories, and to develop the 2011 and 2012 milestone year projected inventories and found them approvable. Furthermore, EPA has found the Baltimore Area's 2012 MVEBs adequate for transportation conformity purposes and approvable. For details on EPA's analysis, see the Technical Support Documents (TSDs) for this rulemaking action, which are available online at <http://www.regulations.gov>, Docket number EPA-R03-OAR-2015-0788.

Other specific requirements of the Baltimore Area serious area RFP plan, inventories, RFP contingency measures, and MVEBs, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the updates to the 2002 base year inventory, updates to the 2008 RFP plan and associated 2008 projected emissions inventory, the 2011 and 2012 RFP plan and associated projected emission inventories, the contingency measures for failure to meet 2012 RFP, and the 2012 MVEBs for the Baltimore Area submitted in MDE's July 22, 2013 Serious Area Plan. The other parts of the Serious Area Plan were withdrawn by Maryland.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, pertaining to the Baltimore Area serious RFP plan, inventories, RFP contingency measures, and MVEBs, may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: July 15, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V--Maryland

2. In §52.1070, the table in paragraph (e) is amended by adding the entries “Serious Area Reasonable Further Progress (RFP) Plan and 2012 RFP Contingency Measures,” “Updates to the 2002 Base Year Inventory for VOC, NO_x and CO,” and “2012 Transportation Conformity Budgets” at the end of the table to read as follows:

§52.1070 Identification of plan.

* * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* * *	*	*	
Serious Area Reasonable Further Progress (RFP) Plan and 2012 RFP Contingency Measures	Baltimore 1997 8-hour ozone serious nonattainment area	July 22, 2013	[Insert the date of publication in the Federal Register] [Insert Federal Register citation]	§52.1076(cc)
Updates to the 2002 Base Year Inventory for VOC, NO _x and CO	Baltimore 1997 8-hour ozone serious nonattainment area	July 22, 2013	[Insert the date of publication in the Federal Register] [Insert Federal Register citation]	§52.1075(p)
2012 Transportation Conformity Budgets	Baltimore 1997 8-hour ozone serious nonattainment area	July 22, 2013	[Insert the date of publication in the Federal Register] [Insert Federal Register citation]	§52.1076(dd)

3. Section 52.1075 is amended by adding paragraph (p) to read as follows:

§52.1075 Base year emissions inventory.

* * * * *

(p) EPA approves, as a revision to the Maryland State Implementation Plan, updates to the 2002 base year emissions inventories previously approved under paragraph (i) of this section for the Baltimore 1997 8-hour ozone serious nonattainment area (Area) submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013. This submittal consists of updated 2002 base year point, area, non-road mobile, and on-road mobile source inventories in the Area for the following pollutants: volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO_x).

4. Section 52.1076 is amended by adding paragraphs (cc) and (dd) to read as follows:

§52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(cc) EPA approves revisions to the Maryland State Implementation Plan consisting of the serious area reasonable further progress (RFP) plan for the Baltimore 1997 8-hour ozone serious nonattainment area, including 2011 and 2012 RFP milestones, updates to the 2008 RFP milestones previously approved by EPA under paragraph (q) of this section, and contingency measures for failure to meet 2012 RFP, submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013.

(dd) EPA approves the following 2012 RFP motor vehicle emissions budgets (MVEBs) for the Baltimore 1997 8-hour ozone serious nonattainment area, in tons per day (tpd) of volatile organic

compounds (VOC) and nitrogen oxides (NO_x), submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013:

Transportation Conformity Emissions Budgets for the Baltimore Area

Type of control strategy SIP	Year	VOC (tpd)	NO_x (tpd)	Effective date of adequacy determination or SIP approval
Rate of Progress Plan	2012	40.2	93.5	March 8, 2016 (81 FR 8711), published February 22, 2016.

[FR Doc. 2016-17781 Filed: 7/29/2016 8:45 am; Publication Date: 8/1/2016]